

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER

-----x  
SEVEN SPRINGS, LLC,

Plaintiff,

-against-

Index No.  
21162/09

THE NATURE CONSERVANCY, ROBERT BURKE,  
TERI BURKE, NOEL B. DONOHOE and  
JOANN DONOHOE,

Defendants.  
-----x

20 County Center  
Carmel, New York  
August 22, 2011

**FILED**

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TIMOTHY C. IDOM  
COUNTY CLERK  
COUNTY OF WESTCHESTER

BEFORE: HON. FRANCIS N. NICOLAI,  
Justice of the Supreme Court

COHN & SPECTOR, P.C.  
Attorneys for the Plaintiff  
200 East Post Road  
White Plains, New York 10601  
BY: JULIE COHN, ESQ.

BENOWICH LAW, LLP  
Attorneys for the Defendant,  
Nature Conservancy  
1025 Westchester Avenue  
White Plains, New York 10604  
BY: LEONARD BENOWICH, ESQ.

Mary C. Traynor  
Senior Court Reporter

*PROCEEDINGS*

1  
2 (Plaintiff's Exhibit 1, real estate tax  
3 expenses, marked for identification.)

4 (Plaintiff's Exhibit 2, computer payroll  
5 expenses, marked for identification.)

6 (Plaintiff's Exhibit 3, office expenses  
7 and supplies, marked for identification.)

8 (Plaintiff's Exhibit 4,  
9 stationery/printing/postage expenses, marked for  
10 identification.)

11 (Plaintiff's Exhibit 5, telephone  
12 expenses, marked for identification.)

13 (Plaintiff's Exhibit 6, fuel/steam  
14 expenses, marked for identification.)

15 (Plaintiff's Exhibit 7, electricity  
16 usage expenses, marked for identification.)

17 (Plaintiff's Exhibit 8, truck and auto  
18 expenses, marked for identification.)

19 (Plaintiff's Exhibit 9,  
20 messenger/delivery expenses, marked for  
21 identification.)

22 (Plaintiff's Exhibit 10, painting  
23 supplies, marked for identification.)

24 (Plaintiff's Exhibit 11, appliance and  
25 equipment expenses, marked for identification.)

*PROCEEDINGS*

1  
2 (Plaintiff's Exhibit 12, hardware  
3 supplies, marked for identification.)

4 (Plaintiff's Exhibit 13, repairs,  
5 materials and supplies, marked for  
6 identification.)

7 (Plaintiff's Exhibit 14, plumbing  
8 repairs, materials and supplies, marked for  
9 identification.)

10 (Plaintiff's Exhibit 15, electric  
11 repairs and supplies, marked for identification.)

12 (Plaintiff's Exhibit 16, rubbish  
13 removal, marked for identification.)

14 (Plaintiff's Exhibit 17, roof repairs,  
15 marked for identification.)

16 (Plaintiff's Exhibit 18, marble  
17 maintenance, contract, marked for identification.)

18 (Plaintiff's Exhibit 19, HVAC  
19 maintenance, marked for identification.)

20 (Plaintiff's Exhibit 20, locks and door  
21 repairs, marked for identification.)

22 (Plaintiff's Exhibit 21, fire and  
23 security system, marked for identification.)

24 (Plaintiff's Exhibit 22, extermination  
25 expenses, marked for identification.)



**PROCEEDINGS**

1  
2 MR. BENOWICH: Leonard Benowich,  
3 Benowich Law Firm, 1025 Westchester Avenue, White  
4 Plains for the Nature Conservancy.

5 THE COURT: Co-counsel, Mr. Cohn?

6 MR. COHN: I would like to introduce Mr.  
7 James Thayer. He graduated from Hofstra and is  
8 awaiting the results of the July bar.

9 That is one of the financial officers of  
10 the Trump Organization.

11 THE COURT: Very well. Thank you.

12 What I have on this, gentlemen, is a  
13 copy of the Decision of the Appellate Division  
14 which remitted the matter back to Supreme Court,  
15 Westchester for the limited purpose of setting the  
16 amount of bond that the appellant has to post.  
17 They granted temporary relief with regard to  
18 entering upon the property, with regard to any  
19 vehicle equipment or machinery, etcetera, where  
20 they conduct, one appellant may conduct.

21 You're the appellant?

22 MR. BENOWICH: I am.

23 THE COURT: You don't want to do any  
24 land surveys here?

25 MR. BENOWICH: No.

**PROCEEDINGS**

1  
2 THE COURT: I didn't think so. That  
3 word is wrong in the decision. It should be  
4 Respondent may conduct handheld surveys.

5 Okay, Mr. Benowich, since you're the  
6 person who has to post the bond, I'll let you go  
7 first.

8 MR. BENOWICH: Actually, your Honor, I  
9 am the one who has to post the bond, but it's Mr.  
10 Cohn's client's burden of proof to prove damages.

11 THE COURT: He has to establish a fair  
12 and reasonable number.

13 Mr. Cohn, do you wish to be heard?

14 MR. COHN: Just as the briefest of  
15 openings.

16 We intend to prove through two witnesses  
17 here that the total amount of the bond should be  
18 \$2,955,295, or round it up to a \$3 million bond.

19 We intend to prove that by virtue of  
20 prior expenses imposed on a limited period of time  
21 for the decision on the appeal and that will be  
22 our proof.

23 THE COURT: Very well. Whoever will be  
24 called as a witness, first witness, can go on the  
25 witness stand. Other witnesses should step

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2                   outside.

3                   MR. COHN: All right. Mr. McConney is  
4                   limited to financials. He will be called second.

5                   The first witness, Mr. Harold Goldman,  
6                   is describing the nature of the property, nature  
7                   of the needs.

8                   THE COURT: Do you have any objection to  
9                   the second witness staying in the courtroom while  
10                  the first testifies, Mr. Benowich?

11                  MR. BENOWICH: No, Judge, as long as  
12                  there is two. We're talking about a lot of people  
13                  here.

14                  MR. COHN: No, that's it.

15                  We call Mr. Harold Goldman.

16                  THE COURT OFFICER: Raise your right  
17                  hand.

18                  Do you swear the evidence you are about  
19                  to give in the matter before this Court will be  
20                  the truth, the whole truth and nothing but the  
21                  truth, so help you God?

22                  THE WITNESS: I do.

23                  THE COURT OFFICER: State your full  
24                  name.

25                  THE WITNESS: Hal Goldman.

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2                   THE COURT OFFICER: Your address?

3                   THE WITNESS: 487 East Main Street,

4                   Mount Kisco, New York.

5                   DIRECT EXAMINATION

6                   BY MR. COHN:

7                   Q. Mr. Goldman, what are your duties in connection  
8                   with the Trump Corporation?

9                   A. Vice-President of Development, Hudson Valley  
10                  Region.

11                  The concentration of my duties at this time is  
12                  the completion of the approval process for Seven  
13                  Springs, as well as other tasks involving development  
14                  activities in the lower New York, Hudson Valley region.

15                  Q. Now, what, in the briefest of terms, what is  
16                  your background and you may, for my purposes, confine it  
17                  to your background, in relation to the duties you were  
18                  called upon to do with the Seven Springs project.

19                  A. I have a bachelors from Columbia University and  
20                  Master's Degree in urban planning, Columbia University  
21                  School of Architecture.

22                  I've had a fairly lengthy career in general and  
23                  private consulting, development, management of  
24                  litigation and both executive positions and construction  
25                  through all phases, shelter industry.



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2           Q.   How long have you been with the Trump agency?

3           A.   Six and-a-half years.

4           Q.   What is it, I'll call it the Seven Springs  
5 project.   What is it?

6           A.   The Seven Springs project is a tract of  
7 approximately 230 acres located in three adjacent towns;  
8 Bedford, North Castle, New Castle, which at the present  
9 time in Bedford has preliminary subdivision approval and  
10 we are seeking approval under the State Environment  
11 Quality Review Act and subsequent subdivision approval  
12 for North Castle and New Castle.

13          Q.   Now, the subject matter of this proceeding is  
14 the amount of a bond.

15               For what portion of the project is it your  
16 understanding that that addresses?

17          A.   The North Castle portion, its affect on the  
18 other tracts making up the entire parcel.

19          Q.   What are your duties in connection with the  
20 Trump Organization relative to, let us say the North  
21 Castle and Bedford properties?

22          A.   I act as the urban planner coordinating the  
23 effort, seeking both SEQRA approval and subdivision  
24 approval and as the connective in the field managing  
25 consultants and carrying on communication and

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2 negotiations with the governmental bodies involved in  
3 that approval.

4           Q.    What type of contact do you have with the  
5 governmental bodies?

6           A.    I have frequent contact with each of the three  
7 divisions. I usually approach discussions to assure  
8 carrying out all the approval steps, including public  
9 hearings.

10          Q.    What is the type of development that is  
11 projected for all of these projects?

12                   MR. BENOWICH:  Objection.

13                   THE COURT:  I'm sustaining at this  
14 point.

15                   Proceed.

16          Q.    What's being built or intended to be built  
17 there?

18                   MR. BENOWICH:  Objection.

19                   THE COURT:  That might have some  
20 bearing.

21                   MR. BENOWICH:  My question is to the  
22 breadth of it.

23                   Counsel has already elicited that there  
24 are three towns. One project already has  
25 approval, so I think in fairness to today's

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2                   hearing and my client, the question of what's been  
3                   approved and what isn't is a big difference. If  
4                   he asks generally what's going to be built, he has  
5                   something approved and something not.

6                   THE COURT: I'll allow.

7                   Proceed.

8                   A. Residential. High-end residential,  
9                   single-family dwellings.

10                  Q. In relation to those single-family dwellings,  
11                  what do you do in connection with the governmental  
12                  bodies?

13                  MR. BENOWICH: Objection.

14                  THE COURT: I'll allow it.

15                  MR. COHN: Judge said you can answer.

16                  A. We go through the process as mandated by the  
17                  State of New York to indicate that the project we will  
18                  build, regardless of its nature, will have no adverse  
19                  impact on the environment.

20                  And we then go ahead to offer specific plans and  
21                  evidence that the subdivisions will comply also in all  
22                  respects with town codes.

23                  Q. In connection -- withdrawn.

24                  The North Castle project -- you indicated the  
25                  Bedford project has been approved. How many homes have

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2           been approved there?

3           A.    Nine.

4           Q.    How many homes are planned for the North Castle  
5           project?

6                   MR. BENOWICH:  Objection.

7                   THE COURT:  I'm allowing it.

8           A.    Our present thinking is seven.

9           Q.    Now, can the project proceed with the present  
10          stay in place?

11          A.    No.

12                  MR. BENOWICH:  Objection.

13                  THE COURT:  That's valid.

14          Q.    Why can't it proceed?

15          A.    The most fundamental reason is that the Town of  
16          North Castle has indicated on several occasions that  
17          they will not accept the resumption of the SEQRA process  
18          while the stay is in place.

19                  MR. BENOWICH:  Move to strike as  
20          hearsay.

21                  THE COURT:  Sustained.  Strike that from  
22          the record.

23          Q.    Have you attempted to submit documents to the  
24          town in connection with ongoing --

25                  THE COURT:  Don't say town, Town of.

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2                   MR. COHN: Thank you, your Honor.

3                   Q. The Town of North Castle. What, if any -- what  
4 if any impediment to going forward have you personally,  
5 in your capacity, experienced by virtue of a stay being  
6 in place on this property, the North Castle property?

7                   MR. BENOWICH: Objection, your Honor.

8                   THE COURT: Overruled. I'm allowing the  
9 question to be answered.

10                  A. I have in several meetings offered to resume the  
11 SEQRA process and the town supervisor, town attorney and  
12 director of planning have refused to accept those  
13 documents, pending the release of the restraining order.

14                  Q. What can't you do?

15                  A. I'm sorry, I don't understand.

16                  Q. By virtue of the action of not accepting the  
17 documents, not going forward, what can you not do in  
18 connection with this project, this North Castle project,  
19 that you could do if the stay were not in place?

20                  MR. BENOWICH: Objection.

21                  THE COURT: I'm sustaining the  
22 objection. You can pursue the line of  
23 questioning.

24                  It seems to be a convoluted,  
25 multifaceted question. Two simple questions.

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2                   Can you build nine homes in Bedford, as  
3 a result of the stay in place.

4                   THE WITNESS: In Bedford? Yes, sir.

5                   MR. COHN: We have good approval there.

6                   THE COURT: Excuse me. Now we have  
7 approvals, but pursuant to this witness, can you  
8 go ahead and build if you want.

9                   Q. Let's go to North Castle with the seven homes,  
10 the subject of this proceeding.

11                   Can you build the seven homes?

12                   A. No.

13                   Q. Why?

14                   THE COURT: No access at this point  
15 until this issue of easement is resolved. Pretty  
16 straightforward.

17                   THE WITNESS: Thank you, sir.

18                   Q. The Court used the term access. How, if at all,  
19 does this stay affect access to the property?

20                   MR. BENOWICH: Objection. The best  
21 evidence of this is the Appellate Division's  
22 injunction.

23                   And the Appellate Division, with all  
24 respect to your Honor's characterization, didn't  
25 restrict access, restricts the use of motor

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2                   vehicles and heavy equipment on my client's land.

3                   THE COURT: The language is different  
4                   but the effect is the same.

5                   MR. BENOWICH: May or may not be.

6                   We take exception to that, your Honor,  
7                   because we'll make that clear on cross.

8                   Q. I'm going to adopt the exact terminology Mr.  
9                   Benowich just used.

10                  How does the restriction of heavy equipment  
11                  affect the ongoing nature of the project?

12                  A. We have no ability to bring on the equipment and  
13                  carry out the studies that are mandated under SEQRA. We  
14                  do not have access to be able to grade and design the  
15                  roads that will be the road access to the property.

16                  Q. Now, are there structures on the North Castle  
17                  property?

18                  A. Yes.

19                  Q. How many structures?

20                  A. Approximately two or three.

21                  Q. Would you briefly describe the largest  
22                  structure?

23                  THE COURT: What's the relevancy?

24                  MR. COHN: Maintenance, heat, light.

25                  All expenses that are coming in for structures

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2                   that have to be maintained during the period of  
3                   time that the stay is in place.

4                   THE COURT:   Suppose the stay wasn't in  
5                   place, would it still be maintained?

6                   MR. COHN:   They would still be  
7                   maintained, your Honor, but they would not be  
8                   maintained for the longer period of time that the  
9                   stay is in place.

10                  THE COURT:   It's somewhat speculative.

11                  MR. COHN:   We would be building our  
12                  project.

13                  MR. BENOWICH:  Your Honor, not only is  
14                  it speculative, it assumes the only way they can  
15                  maintain this structure is by crossing my road.  
16                  If they have been maintaining it during the time  
17                  that the preliminary injunction was in effect,  
18                  they are either in contempt or they found another  
19                  way to do it.

20                  THE COURT:   Sustained.  The issue of the  
21                  structures is not relevant.

22                  You have the Court's ruling.  Proceed.

23                  MR. COHN:   May I inquire further?

24                  Q.   Are you buying fuel for these places?

25                  A.   Yes.



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2                   MR. BENOWICH: Objection.

3                   THE COURT: Same thing. Whether you are  
4 buying fuel, providing heat, providing light,  
5 providing garbage collection, providing cutting  
6 lawns.

7                   It is not relevant with regard to the  
8 issue of what's the amount of bond to be posted.

9                   I'm foreclosing all questions with  
10 regard to that issue. You have an exception to my  
11 ruling.

12                  Proceed, Mr. Cohn.

13                  Q. What type of expenses -- as far as you're  
14 concerned, what type of expenses are being paid to  
15 maintain the property that would ordinarily not, that  
16 would be -- that would be shortened if in fact the  
17 development could be -- could continue without a stay?

18                  MR. BENOWICH: Objection.

19                  THE COURT: I'm allowing it.

20                  A. The intent is to develop it as a single gated  
21 community. The fact that it is located in three  
22 separate political districts to us has no meaning,  
23 because we have it as one project to be built and  
24 marketed as a whole.

25                  We have very heavy maintenance expenses in the

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2       Bedford portion which are now entirely a waste, because  
3       although we could theoretically build Bedford by itself,  
4       commercially that would be catastrophic.

5           Q.     What about the property at issue?

6                   MR. BENOWICH:   Your Honor --

7                   THE COURT:    One minute.

8                   MR. BENOWICH:   I move to strike all of  
9       this.   None were directed to North Castle.   It's  
10      all Bedford, with --

11                   THE COURT:    With regard to whether or  
12      not there is additional expenses on the Bedford  
13      property, that's not relevant.   You may choose not  
14      to go forward.   That's a decision that you make.

15                   I don't agree with the witness it will  
16      be a marketing catastrophe.   Why would it be?   You  
17      have nine homes you can build.   Start doing your  
18      development, build and sell.   It will take you two  
19      or three years any way to cut the roads and put  
20      utilities in and, you know, subdivide the property  
21      and build these supposedly high end residential  
22      properties.

23                   I'm sustaining.

24                   Proceed, Mr. Cohn.

25           Q.     What's happening in North Castle, sir, in

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2           connection with -- how does the delay affect North  
3           Castle?

4                   What expenses, categories, not amounts, what  
5           expenses in the most general of terms, to continue, by  
6           virtue of the stay, which otherwise would be curtailed  
7           or shortened if the stay wasn't there and you could go  
8           in, do the work and make the applications?

9                   MR. BENOWICH: Objection.

10                  THE COURT: I'm allowing it.

11                  A. All of the corporate expenses that are involved  
12           with owning and maintaining, in the nature of security  
13           of the property, including the SEQRA application, since  
14           the SEQRA application is pending, that we have to  
15           maintain the property undisturbed, so everything that  
16           the Trump Organization, Seven Springs spends on the  
17           mortgage, insurance, maintenance of the property itself,  
18           is increased by the delay in completing the approval  
19           process.

20                  Q. In relation to the structure --

21                   MR. COHN: Your Honor, may I inquire? I  
22           don't mean to quarrel with the Court's  
23           instructions.

24                  THE COURT: You would never quarrel with  
25           the Court.

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2                   MR. COHN: Never.

3                   Q. For instance, describe the structure, describe  
4 the structure on the subject property.

5                   MR. BENOWICH: Objection.

6                   Q. What's the largest --

7                   THE COURT: I'm allowing. I sustained  
8 an objection to that exact same question ten  
9 minutes ago. What is the largest structure?

10                   In my mind this is all irrelevant, but  
11 ask the question, what's the largest structure.

12                   A. The largest structure on the North Castle  
13 property is known as the Heinz Mansion, a historical  
14 structure of approximately --

15                   THE COURT: Is it currently occupied?  
16 Currently occupied or vacant?

17                   THE WITNESS: Vacant.

18                   THE COURT: Is the plan to continue that  
19 mansion to be there or knocked down, once you  
20 start developing?

21                   THE WITNESS: Cannot be knocked down,  
22 starred structure.

23                   THE COURT: What's going to change?  
24 It's there, you're keeping it, you can't knock it  
25 down. You'll continue to keep it.

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2                   What's changing? What's the difference  
3                   between now and a year from now or six months from  
4                   now? If you had access, what would you do  
5                   differently, rent?

6                   THE WITNESS: Sell it. Revenue is the  
7                   difference. Now we have the maintenance.

8                   THE COURT: Sell it for what, a  
9                   residence, or just somebody is going to buy, own a  
10                  mansion in North Castle?

11                  THE WITNESS: Residence.

12                  THE COURT: It's not occupied as a  
13                  residence, you're not renting?

14                  THE WITNESS: No revenue.

15                  THE COURT: Proceed, please.

16                  Q. Is it heated?

17                  A. Yes.

18                  Q. And maintained?

19                  A. And air conditioned.

20                  THE COURT: Turn the water off, drain  
21                  the pipes, save the heating bill.

22                  Move on, Mr. Cohn.

23                  Q. What is the second largest -- what is the second  
24                  largest structure?

25                  A. On North Castle?

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2           Q.    Yes.

3           A.    The other structure would be security gates.

4                   THE COURT:   Security gates?

5                   THE WITNESS:   Yeah.

6                   THE COURT:   Power operated or manually  
7           operated gates?

8                   THE WITNESS:   Manually operated gates.

9                   THE COURT:   What do you mean?  You have  
10           to scrape them, paint them?  How do you maintain  
11           gates, is that what you're talking about?

12                   THE WITNESS:   One case, making sure they  
13           are there and maintaining them and keeping the  
14           locks intact.

15                   THE COURT:   Ballpark?

16                   THE WITNESS:   1995, 1996.

17                   THE COURT:   Any problems with locks?

18                   THE WITNESS:   No, because up until two  
19           years ago the gates were the property of the Town  
20           of North Castle.

21                   THE COURT:   Move on from these gates.

22           Q.    Where is the Heinz property?

23                   THE COURT:   I didn't hear the question.  
24           Where is the what?

25                   MR. COHN:   Heinz, like ketchup.

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2           Q.    Where is the Heinz property?

3           A.    In Bedford.

4           Q.    Is there someone to maintain these structures?

5           A.    Yes.

6           Q.    Who?

7           A.    Ms. Debbie Stello, (ph.), who is in court  
8           today, the general manager, who supervised on all  
9           230 acres and she has the appropriate staff to do the  
10          labor involved in that task.

11          Q.    Where are these functions carried out, at the  
12          property?

13          A.    At the property.

14          Q.    Any other locations the property is maintained?

15          A.    All the costs maintained in the property are  
16          paid from the central office.

17          Q.    Where is the administration of the property  
18          carried out?

19                   MR. BENOWICH:  Objection.

20                   THE COURT:  I'll allow.

21          A.    725 Fifth Avenue.

22          Q.    Manhattan?

23          A.    Manhattan.

24          Q.    Is the project forming the subject matter of  
25          this proceeding, the project itself, is it landlocked?

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2 MR. BENOWICH: Objection.

3 A. Yes.

4 MR. BENOWICH: I don't understand.

5 THE COURT: Project or seven homes in  
6 North Castle?

7 MR. BENOWICH: Seven homes.

8 MR. COHN: Seven homes in North Castle,  
9 that's what we're discussing, the project itself,  
10 the ongoing nature of the project.

11 THE COURT: Excuse me.

12 MR. COHN: We're not talking about the  
13 property, I'm talking about the project, can it  
14 proceed? Let me clarify.

15 THE COURT: Limit your question to this  
16 project in North Castle, landlocked.

17 Q. Is the project in North Castle landlocked?

18 A. Yes.

19 Q. Why?

20 A. Because there is no other access to that  
21 project, except by what we call Old Oregon Road, the  
22 road that was shown clearly in the 1973 town map with  
23 the listing. For 16 years we carefully examined all  
24 possible alternatives.

25 MR. BENOWICH: Objection, your Honor.



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2                    THE COURT: Sustained. It's landlocked,  
3                    that's what litigation is all about.

4                    You need access to the property over  
5                    this Oregon Road. Nature Conservancy feels you  
6                    should not have access. That's where it's at.  
7                    Now it's up to the people at 45 Monroe Place.

8                    No further questions?

9                    MR. BENOWICH: I do.

10                  THE COURT: Mr. Benowich?

11                  MR. BENOWICH: Thank you, your Honor.

12                  **CROSS-EXAMINATION**

13                  **BY MR. BENOWICH:**

14                  Q. Mr. Goldman, when this lawsuit was started in  
15                  2006 were you working for the Trump Organization?

16                  A. Yes.

17                  Q. At that time did the North Castle parcel owned  
18                  by Seven Springs have access to what's called Oregon  
19                  Road to the north?

20                  A. Yes.

21                  Q. What happened after the lawsuit was commenced to  
22                  make this parcel landlocked, in your words?

23                  A. Excuse me, let me amend my answer.

24                  Q. Excuse me, can you answer my question, sir?

25                  A. What happened before the lawsuit was commenced?

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1 Q. What was it that happened?

2 A. The Town of Bedford, based on its subdivision  
3 regulations, stipulated in its approval process that we  
4 could not have access to the North Castle portion  
5 through the Bedford portion and that the private road  
6 which was connecting to Oregon Road would be stopped at  
7 the Bedford border.  
8

9 In fact, Bedford insisted we did not have the  
10 right to cross over that portion of Oregon Road.

11 Q. That's another suit in this case. Bedford  
12 insisted that they have sort of what they call a  
13 pertinent green belt to prevent traffic between Bedford  
14 and North Castle as a condition of your organization  
15 moving forward with the Bedford plan; isn't that right?

16 A. No. The condition was that until we clarified  
17 our right to use Oregon Road they would forbid or  
18 prevent through traffic.

19 Q. They insisted it would be covenant in the land  
20 and in the deeds, isn't that right, that you would not  
21 have access between the two towns; isn't that right,  
22 sir?

23 A. No.

24 Q. No? Are you familiar with the Town of Bedford  
25 environmental impact statement?

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2           A.    Thoroughly.

3                           THE COURT:   One person has to speak so  
4                           the Court Reporter can track what's going on.

5                           MR. COHN:   Your Honor, counsel is  
6                           cutting the witness' answer off.

7                           Until the answer become inappropriate in  
8                           accordance with whatever the Court rules in that  
9                           regard, I ask that the witness be allowed to  
10                           answer.

11                           THE COURT:   Let him finish his answer.

12                           MR. BENOWICH:  Yes, your Honor.

13                           THE COURT:   If it's not responsive or  
14                           should be stricken, you can make an application.

15                           MR. COHN:   Can the witness finish his  
16                           answer?

17                           THE COURT:   What question is unanswered?

18                           MR. BENOWICH:  I wasn't -- we went  
19                           forward.

20                           THE COURT:   I'm asking the witness.

21                           Was there an unanswered question?

22                           THE WITNESS:  Yes.  The question that's  
23                           unanswered is the discussions the Town of Bedford  
24                           continued.

25                           THE COURT:   There was no question about

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2                   discussions. The question was, are you familiar  
3                   with the findings of the Town of Bedford?

4                   THE WITNESS: Yes.

5                   THE COURT: You answered thoroughly.

6                   Now, if he wants to know the extent of  
7                   your knowledge, he'll ask you more questions.

8                   Q. The Trump Organization on behalf of Seven  
9                   Springs decided to go forward and obtain preliminary  
10                  subdivision approval of the plan in Bedford; isn't that  
11                  right?

12                  A. Yes.

13                  Q. And as a consequence of that there will be a  
14                  bar, barrier between traffic, of traffic between North  
15                  Castle and Bedford on Oregon Road; right?

16                  A. Yes.

17                  Q. Thank you.

18                  Now, you said early in your testimony that it's  
19                  because of the stay or injunction issued by the  
20                  Appellate Division that you can't take heavy equipment  
21                  on the disputed portion of Oregon Road; isn't that  
22                  right, that's what you said earlier today?

23                  A. Yes.

24                  Q. Didn't you give a different statement when you  
25                  gave an affidavit to the Appellate Division on the

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2           hearing in connection with the hearing on the injunction  
3           motion?

4           A.    I don't know what you are referring to.

5           Q.    Do you remember giving an affidavit and stating  
6           in words or substance there that the Court didn't have  
7           to worry about you using heavy equipment on the disputed  
8           portion, because at the request of the Town of North  
9           Castle you wouldn't be using such equipment?

10           Do you remember giving that statement in a sworn  
11           affidavit?

12           A.    Yes.

13           Q.    How is it that something the town insisted you  
14           not do, you are prevented from doing because of a later  
15           Court Order?

16           A.    I don't understand the question.  Sounds like  
17           you're referring to two different conversations.

18           Q.    I did.  In one of them you gave an affidavit  
19           which you said -- why don't I just show it to you?

20                   MR. BENOWICH:  Your Honor, I apologize.

21           I have only one copy for the witness.  Mine is a  
22           little marked up, but --

23                   THE COURT:  Are you familiar with that  
24           document, Mr. Cohn?  I'm sure you are, it's a  
25           submission on appeal.

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2                   MR. COHN: I am. Maybe -- could I stand  
3 next to the witness without communicating and read  
4 it?

5                   MR. BENOWICH: Judge.

6                   THE COURT: No need for that. Show it  
7 to the witness.

8                   THE COURT OFFICER: Have it marked?

9                   THE COURT: No. Show it to the witness.  
10 It may eventually be marked.

11                  A. What part of this are you referring to?

12                  Q. Would you take a look and see if that's your  
13 signature at the back on page eight?

14                  A. Yes.

15                  Q. This is your affidavit?

16                  A. Yes.

17                  Q. Do you remember giving this statement, paragraph  
18 6, the third sentence? Do you see?

19                  A. It was agreed, assuming there is no preliminary  
20 injunction preventing such an action, Seven Springs  
21 clear a pathway into its land with the least disturbance  
22 of the land. At the request of the town we will not be  
23 using heavy equipment.

24                  Q. Now, it's that last sentence I want to focus  
25 your attention on. This affidavit was given June 29th,

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1 do you remember that?

2 A. Yes.

3 Q. That's before the Appellate Division issues its  
4 order granting an injunction; right?

5 A. Yes.

6 Q. So, as of the end of June you had discussions  
7 with the Town of North Castle; is that correct?

8 A. Yes.

9 Q. And in those conversations you agreed you would  
10 not be using heavy equipment to do whatever you would be  
11 doing on the disputed portion of Oregon Road; is that  
12 correct?  
13

14 A. Yes, it is.

15 Q. What happened afterwards to change that?

16 A. Nothing, except --

17 Q. So then --

18 MR. COHN: Wait. He's not finished.

19 THE COURT: No. What happened?

20 Nothing. That's the answer.

21 MR. BENOWICH: He can't give a speech.

22 Q. As a result of your conversation with the town,  
23 you on behalf of the Plaintiff, Seven Springs, had an  
24 agreement that you would not be using heavy equipment on  
25 the disputed portion of Oregon Road; right?

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2           A.    No.

3           Q.    Well, I don't know what your statement means.

4           A.    It's not as a result of a discussion, it's the  
5 rules of the SEQRA process. That's why we agreed.

6           Q.    Why is it at the request of the town you  
7 wouldn't be using the road? Why didn't you say that  
8 under SEQRA we won't or we can't?

9           A.    Because I would have preferred to use heavy  
10 equipment for economic reasons and the town reminded me  
11 that until SEQRA was finished we could do nothing but  
12 clear the road and pave it to the point where we had at  
13 least emergency access and I said, you're right and I  
14 agreed.

15          Q.    Precisely my point. It has nothing to do with  
16 the injunction embargo on your ability to use heavy  
17 equipment, but a preexisting condition because of SEQRA  
18 and the stage of whatever planning and applications you  
19 had on the North Castle project?

20          A.    You're trying to confuse the Court by defining  
21 heavy equipment. Your own terms.

22          Q.    I'm not. You are the one that used it in your  
23 affidavit and your testimony today, I submit.

24          A.    Heavy equipment -- I am -- I'm confused.

25                   THE COURT: Don't argue. Move on,



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2                   please.

3                   Q.    You said here, plain English, not generating  
4                   revenue there?

5                   A.    That's correct.

6                   Q.    Is the property for sale?

7                   A.    We are not actively marketing.  It will be for  
8                   sale.

9                   Q.    You don't have a contract to sell it, do you?

10                  A.    Not to my knowledge.

11                  Q.    Does anybody to your knowledge reside part-time,  
12                  full-time, weekends at the mansion?

13                  A.    The building is set aside for Mr. Trump's use.  
14                  He resides there, if he so chooses.

15                  Q.    It is occupied and may be used by Mr. Trump, if  
16                  he so chooses?

17                  A.    If he so chooses.

18                  Q.    So when you said that no one is living there,  
19                  what did you mean?

20                  A.    I mean no one is living there.  No one has  
21                  occupied the house as their primary dwelling.

22                  Q.    You didn't say that in response to Mr. Cohn,  
23                  that it was the primary residence or not.  The fact is  
24                  it's used by Mr. Trump if he desires?

25                  A.    If he desires.  At the present time he does not.

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2           Q.   How many homes does he have?

3                   MR. COHN:  Objection.

4                   THE COURT:  Sustained.

5           Q.   Do you know if any of his sons lives there on  
6 occasion?

7                   MR. COHN:  Objection.

8                   THE COURT:  It goes to the issue whether  
9           this mansion is being used.

10          A.   They do not live in that mansion, no.

11          Q.   Do you know if any of his sons uses it at any  
12 time?

13          A.   Never.  It's locked and can't be used by them.

14          Q.   Not even if Mr. Trump says they can use the  
15 house?

16                   MR. COHN:  Objection.

17          A.   He says they cannot.

18                   THE COURT:  Move on.  As far as he knows  
19           it's not being used by any children.  Move on.

20          Q.   Now, after this action was commenced and the  
21 complaint was initially dismissed, Seven Springs  
22 organization withdrew the application it had pending in  
23 North Castle; isn't that correct?

24          A.   No.

25          Q.   No?

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2           A.    No.   We abated it.   We did not withdraw it.

3                   MR. BENOWICH:   If I may ask this be  
4           marked?

5                   Would you mark this as Defendant's  
6           Exhibit A, please, letter dated August 10th from  
7           Mr. Cohn's predecessor.

8                   MR. COHN:   Give them the year.

9                   (Defendant's Exhibit A, one-page copy of  
10          a letter to the North Castle Planning Board from  
11          Mark Weingarten, dated 8/10/07, marked for  
12          identification.)

13          Q.    Mr. Goldman, have you ever seen Defendant's A  
14          before?

15          A.    No.

16          Q.    Would you look down at the cc, especially the  
17          one from the bottom?

18          A.    Um-hmm.

19          Q.    Do you see that?

20          A.    Yes.

21          Q.    Your name appear on that?

22          A.    Yes.

23          Q.    What's the law firm?

24          A.    DeBello, Donnellan and Weingarten, Seven  
25          Springs' counsel in its application to the planning

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2           board prior to Mr. Cohn's. It was a mistake,  
3           inappropriate. That is why we fired them.

4                   THE COURT: Excuse me. Answer the  
5           question.

6                   Did he say why did you fire them? He  
7           didn't.

8                   Ask that question again. Listen to the  
9           question. If your counsel determines there needs  
10          to be a follow up on any questions Mr. Benowich  
11          asks, he will be given that opportunity so we can  
12          move forward here.

13                   Read the question back to the witness.

14                   (Reporter read back as requested.)

15           Q. Let me rephrase.

16                   Before Mr. Cohn was counsel for Seven Springs,  
17          was the DeBello, Donnellan firm Seven Springs counsel  
18          for this lawsuit?

19           A. Yes.

20           Q. Also the Seven Springs counsel in dealing with  
21          North Castle?

22           A. Yes.

23                   MR. BENOWICH: Your Honor, I ask that  
24          Exhibit A be received in evidence.

25                   THE COURT: Mr. Cohn?

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2                   MR. COHN: No objection.

3                   THE COURT: Have Defendant's A marked in  
4 evidence .

5                   **(Defendant's Exhibit A received in**  
6 **evidence.)**

7                   Q. Would you just read the second sentence of the  
8 letter, sir?

9                   A. Our client asked us to advise the planning board  
10 they are hereby withdrawing the application made to the  
11 planning board for approval of the subdivision of the  
12 portion of the property that is within the Town of North  
13 Castle.

14                  Q. Thank you.

15                  Did Seven Springs ever submit or resubmit a plan  
16 for approval to North Castle?

17                  A. The plan is still in submission.

18                  Q. Have you submitted or resubmitted the plan for  
19 North Castle's approval since August 10, 2007, sir?

20                  A. No. The plan that was in submission at that  
21 time is still pending.

22                  Q. Even though it was withdrawn?

23                  A. It was not withdrawn, the attorney made an  
24 error.

25                  Q. Even though your lawyer wrote --

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2           A.    No longer --

3                   MR. COHN:  Objection, argumentative.

4                   THE COURT:  Look, you people are acting  
5           like this is a matrimonial.  This is a business  
6           case.  Act like professional business people or  
7           I'll cut this hearing off and pick a number of my  
8           own and you can go to Brooklyn and argue why I did  
9           that.

10                   Proceed, please.

11           Q.    What applications has Seven Springs submitted to  
12   North Castle since August 10, 2007?

13           A.    We have not submitted any further application or  
14   further processing under the application since the  
15   restraining order was put in place.

16           Q.    I didn't ask you that, sir.  I asked you since  
17   the date of the letter, which was August 10, 2007, a  
18   little over four years ago?

19           A.    We have not submitted any new material.

20           Q.    And now, have you considered what will happen to  
21   the North Castle project, as you loosely refer to it, if  
22   the Appellate Division determines Seven Springs does not  
23   have the rights over the disputed portions of Oregon  
24   Road which you seek in this case?

25           A.    Have I personally considered this?

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2           Q.    Yes, sir.

3           A.    No.

4           Q.    You haven't thought about what would happen if  
5 you lose the appeal?

6           A.    No.  It's my firm conviction we'll win it.  Why  
7 would I consider otherwise?

8           Q.    Have you had discussion to that effect with any  
9 one at North Castle?

10          A.    No.

11          Q.    I see.  All right.

12                    What is it you would like to bring on the  
13 disputed area of Oregon Road that you can't?

14          A.    I'm not sure that I understand the question.

15          Q.    What is it that you would like to bring onto  
16 Oregon Road, the portion that is in dispute under the  
17 injunction, that you are not able to do today?

18          A.    At what time?

19          Q.    Today, sir.

20                    THE COURT:  Your question is assuming  
21 there is no injunction.  Is that what you mean?

22                    MR. BENOWICH:  Yes.

23          Q.    What is it you would like, I'll call it Oregon  
24 Road, can we do that?

25          A.    Yes.

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2           Q.    What is it you would like to bring onto Oregon  
3 Road that you can't because of the Appellate Division's  
4 injunction?

5           A.    Some people and perhaps a couple of small  
6 bobcats to clear the road of vegetation and make it  
7 possible to drive, shall I say, cars and four wheel  
8 drive vehicles, so my engineers can do the studies and  
9 surveys and engineering to design the road.

10           One of differences in the ongoing application is  
11 that we have to design Oregon Road as a new road to the  
12 DOT and town standards.

13           Q.    Do you have the right to do that even under  
14 Court's order if it's upheld on appeal?

15           A.    I'm not a lawyer, I can't answer that.

16           Q.    You seem to have great familiarity with SEQRA  
17 and you testified to managing litigation, why are you  
18 unaware what you can and can't do to the road so  
19 essential to a project that you claim is stalled?

20           A.    I don't know what your question is and I don't  
21 know what that speech was.

22           Q.    What's a bobcat?

23           A.    A bobcat is a piece of equipment, small, light,  
24 which accepts an attachment for grading.

25                   THE COURT:   Mini backhoe.



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2                   THE WITNESS: Excavation.

3                   THE COURT: Mini backhoe.

4                   THE WITNESS: Yes.

5           Q.    You can have people walk up and down Oregon Road  
6 now, can't you?

7           A.    Yes.

8           Q.    So other than not bringing a bobcat in to clear  
9 the road, what can you not do?

10          A.    I have not yet heard from my surveyor. We also  
11 need a survey of the road and close out that survey as  
12 part of the design.

13          Q.    Hasn't he done a survey already?

14          A.    Yes. He did a survey before the restraining  
15 order. And I don't know by whom, but he did it and  
16 twice his stakes and markers were torn up by someone.

17          Q.    You don't know who?

18          A.    No. I wasn't there.

19          Q.    But you had a survey done. When was it done?

20          A.    Part was done before I came with the company.  
21 The other was done about five years ago.

22          Q.    So you haven't had a survey done since what,  
23 2006? That's when the case was started, right?

24          A.    Best of my knowledge.

25          Q.    Have you had a survey done since the case was

1                   H. GOLDMAN - CROSS - MR. BENOWICH

2           started in May or June 2006?

3           A.    I don't know.  I don't remember that.

4           Q.    You don't know or you don't remember one was  
5           done?

6           A.    Since I don't remember, I also do not know.

7           Q.    You've been running this project since you came  
8           into the firm, right?

9           A.    Yes.

10          Q.    How long would it take to clear Oregon Road in  
11          order to do the surveys and studies that you want to do?

12          A.    Depending what we found, might take from a  
13          couple of weeks to several weeks.

14          Q.    Now, the Court's decision was issued in May and  
15          the injunction was issued in late June.

16                Did you take any steps before that injunction  
17          was issued to do any of the things you say you're not  
18          now free to do?

19          A.    I don't know the question.

20          Q.    Did you do anything between the time of Judge  
21          Nicolai's decision and the time the Appellate Division  
22          issued a temporary injunction, which you say you can't  
23          now do because of the injunction?

24                   MR. COHN:  Objection.

25                   THE COURT:  I'll allow.

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2                   MR. COHN:    May I?

3                   THE COURT:    Yes.

4                   MR. COHN:    Mr. Benowich miss spoke.

5                   It's a highly technical aspect.  If he changes his  
6                   question to judgment, instead of discussion.

7                   THE COURT:    Judgment entered?

8                   MR. COHN:    That's correct.

9                   MR. BENOWICH:  That's not my question.

10                  MR. COHN:    Well, okay.

11                  Then I object to the question because on  
12                  the decision it was still, there was still Judge  
13                  Rory Bellantoni's --

14                  MR. BENOWICH:  He can answer yes or no.  
15                  That's all it is.

16                  THE COURT:    I don't believe, Mr.  
17                  Benowich, that after the decision of the Court is  
18                  in play, that authorized these people to go on  
19                  there and start doing work the property.

20                  MR. BENOWICH:  I agree.  That's the  
21                  position we took years ago.  That's why we needed  
22                  an injunction.

23                  I'm still free to ask him without  
24                  counsel saying why he did or he didn't.

25                  THE COURT:    You can't make an issue of

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2                   somebody not doing something when they haven't  
3                   been authorized to do it.

4                   MR. BENOWICH:   Then he was never free to  
5                   do it.   The judgment wasn't entered until after  
6                   the injunction was issued.

7                   THE COURT:   Right.   That's agreeable, I  
8                   accept that.

9                   MR. BENOWICH:   If that's your Honor's  
10                  point.

11                  THE COURT:   My position is, I'll put it  
12                  for the record, is that they are not entitled to  
13                  go on the land and do anything until there is a  
14                  judgment entered, because first he has to submit  
15                  judgment.   The other side has an opportunity to  
16                  submit a counter judgment if they don't agree and  
17                  the Court has to decide what the judgment has to  
18                  be and the judgment is entered.   And once it's  
19                  entered, the parties know where they have to go  
20                  from there.

21                  Proceed.

22                  Q.   After the Judge's discussion about the judgment,  
23                  I'm speaking carefully, after the Judge's decision, did  
24                  you have a discussion with anyone representing North  
25                  Castle with respect to Seven Springs' intention to

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1  
2 proceed with anything in North Castle?

3 A. Yes.

4 Q. When was that and with whom did you speak?

5 A. I don't have a date. It was with the town  
6 supervisor, town attorney and town director of planning.

7 Q. Can you tell me essentially what you told them?

8 A. I told them we would like to go ahead on the  
9 basis of our victory in the Court below, which is  
10 actually this Court, to clear the roadbed sufficient to  
11 be able to begin the study we needed to do to resume  
12 SEQRA.

13 Q. Your affidavit establishes that they either told  
14 you or reminded you you weren't free to use heavy  
15 equipment.

16 Did you understand the bobcat to be heavy  
17 equipment for purposes of that discussion?

18 A. Absolutely not. We are talking about a D9  
19 caterpillar.

20 Q. You consider yourself, that is Seven Springs, is  
21 free to use a bobcat, notwithstanding that decision?

22 A. So did they.

23 MR. BENOWICH: Move to strike, your

24 Honor.

25 THE COURT: That's fair.

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1  
2 Q. Who told you you could do that?

3 A. Town attorney, town supervisor, director of  
4 planning.

5 Q. What else did they tell you?

6 A. They said in accordance with SEQRA we could not  
7 or we should not make any significant alterations to the  
8 profile of the land. Since we were working on a  
9 preexisting roadbed, that's not a problem.

10 Q. I only asked what they told you, sir.

11 A. That's what they told me.

12 Q. Have you had discussions with North Castle since  
13 the Appellate Division injunction has been entered?

14 A. No.

15 Q. Do know about it to your knowledge?

16 MR. COHN: Objection to what they know.

17 Q. To your knowledge?

18 THE COURT: I'll allow.

19 Q. Did you tell any of your correspondents at North  
20 Castle about the injunction?

21 A. No.

22 Q. Why not?

23 A. Why would I do that?

24 Q. If you had a plan that was only -- withdrawn.

25 You recently had a discussion about proceeding

1                   H. GOLDMAN - CROSS - MR. BENOWICH

2           under SEQRA. One might think you intended to pursue the  
3           plan. If you were subject to injunction why wouldn't  
4           you tell them I would like to, I can't?

5           A. Town attorney called me and said oh, my God. I  
6           see I just got the injunction.

7           Q. Why was it that you were so caustic with me  
8           about why would you call them when all you had to do was  
9           say --

10                   THE COURT: Mr. Benowich, please.

11           Please.

12                   MR. COHN: Thank you, your Honor.

13           Q. Who is the town attorney, Mr. Veroni (ph.)?

14           A. Roland Veroni (ph).

15           Q. What did you say?

16           A. He said he had no idea why it was that the  
17           injunction was continued by the Appellate Division.

18           Q. What did he say?

19           A. I said, I know and he said -- is this hearsay if  
20           I say what he said?

21                   THE COURT: That's not up to you to  
22           decide.

23           A. He said it was terrible thing. He didn't  
24           understand why the Appellate Division did that and he  
25           wished it hadn't happened, wished us good luck in

1                   H. GOLDMAN - REDIRECT - MR. COHN

2           overturning it.

3                   MR. BENOWICH: I have no further  
4           questions.

5                   THE COURT: Redirect?

6                   MR. COHN: Thank you, your Honor.

7   **REDIRECT EXAMINATION**

8   **BY MR. COHN:**

9           Q. First of all, the significant alteration of the  
10          land that you indicated could not be done, was that part  
11          of the ongoing application?

12          A. Yes.

13          Q. In fact, was the application withdrawn or using  
14          the term you used, was it temporarily abated?

15                   MR. BENOWICH: Objection.

16                   THE COURT: I'll allow he's leading the  
17          witness, but I'll let him do it.

18          A. The answer is fairly conclusive. It was put in  
19          abeyance and when we had our conversations with the  
20          town, as far as settlement agreements, they agreed not  
21          only that they would resume the process as it stood, but  
22          that in accordance with the appropriate section of SEQRA  
23          we will maintain and have the use of, full credit for  
24          all of the 5,000 pages of data and studies that were in  
25          place when we abated the study and --



1                   H. GOLDMAN - REDIRECT - MR. COHN

2                   MR. BENOWICH: Objection.

3           A.    -- we'll pick up from that point.

4                   THE COURT: Simple process. Mr.  
5           Benowich is relying on a letter. He disputes. He  
6           uses word the withdraw, he uses abated. Alleviate  
7           that.

8                   Move on. It's not going to decide this  
9           issue.

10           Q.   Mr. Benowich used the term relative to land up  
11           above, quote/unquote, as a consequence there was a bar;  
12           do you recall that?

13           A.    I do.

14           Q.    What is that?

15           A.    It is stipulation in the findings and in the  
16           preliminary approval that we can't use a road for  
17           through traffic from Bedford into North Castle until  
18           such time as we have a road in North Castle which has  
19           its own primary access to the south. And at that time  
20           they are committed to connecting the road and allowing  
21           through traffic.

22           Q.    In connection --

23                   MR. BENOWICH: Objection, your Honor.

24           Best evidence. What counsel is leading his  
25           witness through is contained in writings and

1                   H. GOLDMAN - REDIRECT - MR. COHN

2                   written documents and this witness' recollection  
3                   without the documents is hearsay. No foundation.

4                   THE COURT: Mr. Benowich, you opened the  
5                   door.

6                   MR. BENOWICH: I did and I have the  
7                   documents, counsel does not. And he is reading  
8                   from his memory, rather than from an agreement and  
9                   we'll be happy to go through it, but there is  
10                  wrong --

11                  THE COURT: I'm not going to require him  
12                  to go through it. I'm overruling the objection.

13                  Proceed, Mr. Cohn, wrap this up.

14                  Q. In connection with the SEQRA process on the  
15                  land, as opposed to the road on your land, Seven Springs  
16                  land, are there any holes that have to be dug in  
17                  connection with that process?

18                  MR. BENOWICH: Process. Objection.

19                  THE COURT: I'm sustaining the  
20                  objection. You have SEQRA. Whatever it is, it  
21                  is.

22                  Q. That kind of activity can't be conducted on the  
23                  land because the stay is now in place?

24                  A. A large number of investigations having to do  
25                  with sewage, storm water control, water supply,

1                   **H. GOLDMAN - RE CROSS - MR. BENOWICH**

2           vegetation, maintenance of lawns, planting, traffic and  
3           several others which I --

4                   THE COURT:   They can't go forward with  
5           doing the work necessary to develop this property  
6           so they can subdivide it and build houses.

7                   THE WITNESS:   Could not have possibly  
8           said it better.

9                   THE COURT:   Storm water has to be  
10          controlled.   That's standard work that's done when  
11          we have a large development with many acres on it  
12          like this.

13                   THE WITNESS:   Precisely so.

14                   MR. COHN:   No further questions.

15                   THE COURT:   Recross, Mr. Benowich?

16                   MR. BENOWICH:   Just a little, your  
17          Honor.

18                   Can I mark this?   I don't have a copy.  
19          I'm happy to show counsel.

20                   (Findings statement, Seven Springs,  
21          Final dated 6/3/09, marked for identification.)

22                   **RE CROSS-EXAMINATION**

23                   **BY MR. BENOWICH:**

24                   Q.   Take a look at this and tell me if you've ever  
25          seen it before?

1                   H. GOLDMAN - RE CROSS - MR. BENOWICH

2           A.    Yes.

3           Q.    Do you know what it is?

4           A.    Yes.

5           Q.    Can you tell me what it is?

6           A.    It is the findings statement for our SEQRA  
7 process in the Town of Bedford.

8                   MR. BENOWICH:  Ask that it be received  
9 as exhibit B, your Honor.

10                  MR. COHN:  Well, your Honor, their  
11 application is for North Castle, not Bedford.

12                  THE COURT:  There may be an issue.  If  
13 I'm incorrect, someone can explain.

14                  It's my understanding, it's the witness'  
15 understanding at some point Bedford will allow  
16 traffic from North Castle through Bedford and Mr.  
17 Benowich contests that ultimate conclusion; is --  
18 that fair?

19                  MR. BENOWICH:  That's right, Judge.

20                  Two very quick questions I'll ask about  
21 this document.

22                  THE COURT:  Why don't we, one page you  
23 can look at.

24                  MR. BENOWICH:  Actually page two and on  
25 page 21.

1                    **H. GOLDMAN - RECROSS - MR. BENOWICH**

2                    THE COURT: Deemed in evidence, limited  
3                    to the two areas. Mr. Benowich is going to  
4                    question on page two and page 21.

5                    MR. COHN: I would just ask, I'm sure  
6                    the Court will give it to me, one or two  
7                    questions, whether there is anything else of  
8                    relevance that may contradict whatever Mr.  
9                    Benowich elicited.

10                   THE COURT: I'll deal with the  
11                   application when made.

12                   Q. Look at the top, very top of page two. Do you  
13                   see?

14                   A. Um-hmm.

15                   Q. There is a finding made by Bedford, right?

16                   A. Yes.

17                   Q. And could you read the finding, the very top of  
18                   page two?

19                   A. Withdrawal by the applicant, all applications to  
20                   the Town of North Castle August 10, 2007.

21                   Q. Did you ever tell Bedford that finding was  
22                   incorrect?

23                   A. Yes.

24                   Q. How did do you that?

25                   A. When I received the findings I called the

1                   H. GOLDMAN - RECROSS - MR. BENOWICH

2           director of planning and I told them that that finding  
3           was incorrect.

4           Q.    When was that?

5           A.    Sometime the second week in June.

6           Q.    Which year?

7           A.    '09, after their finding statement was made.

8           Q.    Did you write them a letter?

9           A.    No.

10          Q.    You just called them?

11          A.    Yeah.

12          Q.    Look at page 21, fourth full paragraph?

13                   MR. BENOWICH:  Your Honor, I can ask the  
14           witness to read.  Since it's in evidence, I can  
15           read it, perhaps somewhat more slowly.

16                   THE COURT:  Go ahead.

17                   MR. BENOWICH:  This is the fourth  
18           paragraph on page 21.

19                   Quote:  The applicant has agreed that  
20           the new road will not be extended or used for  
21           access to the North Castle portion of the site,  
22           except for access to the existing estate home.

23                   If in the future the North Castle  
24           portion of the site is developed with a primary  
25           access from North Castle, the Bedford planning

1                   H. GOLDMAN - RECROSS - MR. BENOWICH

2                   board may grant an amended subdivision approval,  
3                   specifically permitting the connection, to create  
4                   a through road. The other scenarios would violate  
5                   Town of Bedford regulation for dead end roads.

6                   This agreement will be a covenant in the  
7                   recorded declaration of the homeowner's  
8                   association that will be formed by the applicant.  
9                   End of quote.

10                  MR. COHN: Is there a question?

11                  THE COURT: He hasn't finished. He read  
12                  it, now he's going to ask the question.

13                  Q. Was there an agreement that you will not have a  
14                  through road between North Castle and Bedford?

15                  THE COURT: That's not what it says.

16                  A. This is a finding statement, not an agreement.

17                  Q. This reflects an agreement.

18                  You didn't have permission to build a through  
19                  road until two things at least happened, you got  
20                  permission of North Castle and you went back for  
21                  permission from Bedford; isn't that correct?

22                  MR. COHN: Objection. It's entirely  
23                  consistent. It's not impeachment.

24                  THE COURT: I'll allow.

25                  MR. COHN: That's not what it --

1                   H. GOLDMAN - RECROSS - MR. BENOWICH

2                   THE COURT: I'll allow. He's asking  
3                   this witness if that's what it was, if that's what  
4                   it says.

5                   THE WITNESS: That's what it says.

6                   Q. That was your agreement with Bedford?

7                   A. The word agreement is improper. It's a finding  
8                   statement, it is not an agreement. It's a document  
9                   issued by the town, written by the town.

10                  This particular paragraph is now being discussed  
11                  as part of a final approval and is going to be  
12                  completely rewritten.

13                  THE COURT: Sustained. That's stricken.

14                  He's right, Mr. Benowich, it's not an  
15                  agreement. It's a finding by the town board,  
16                  which places restrictions and conditions upon  
17                  further action.

18                  MR. BENOWICH: With all respect, the  
19                  first four words of this are applicant has an  
20                  agreement.

21                  THE COURT: Agreed to the findings, not  
22                  the ultimate conclusion.

23                  Q. Was this paragraph accurate?

24                  A. Not in the first four words. We didn't agree it  
25                  was required of us.



1                   H. GOLDMAN - RECROSS - MR. BENOWICH

2           Q.    Did you call the planning --

3                   THE COURT:   We're making a non issue.  
4           They can not have a through road until the two  
5           conditions precedent founded in that findings are  
6           met and permission from the two communities.

7                   No further questions?

8                   The language isn't a permanent bar to a  
9           through road.

10                  MR. BENOWICH:   It is until he gets  
11           permission.

12                  THE COURT:   Exactly.   He has no  
13           permission.   At this point he has to seek  
14           permission and meet certain conditions when he  
15           seeks permission.

16                  MR. COHN:   Includes winning the case.

17                  THE COURT:   I don't know.

18                  Move on.   Do you have any questions for  
19           this witness?

20                  MR. COHN:   No, your Honor.

21                  THE COURT:   Very good.

22                  You are finished, Mr. Goldman.   Am I  
23           right?   I remembered your name.   That doesn't  
24           always happen to everybody.   You may step down.

25                  (Witness left the stand.)

1                    *J. McCONNEY - DIRECT - MR. COHN*

2                    THE COURT: B will be marked in  
3 evidence.

4                    (Defendant's Exhibit B received in  
5 evidence.)

6                    (Recess.)

7                    (Plaintiff's Exhibit 30, Seven Springs  
8 Expense Projection, ending 7/31/12, marked for  
9 identification.)

10                   THE COURT: Mr. Cohn, are you ready to  
11 call your next witness?

12                   MR. COHN: Yes.

13                   THE COURT: Please proceed.

14                   MR. COHN: Plaintiff calls Jeff  
15 McConney.

16                   (Witness took the stand.)

17                   THE COURT OFFICER: Raise your right  
18 hand.

19                   Do you swear the evidence you are about  
20 to give in the matter before this Court will be  
21 the truth, the whole truth and nothing but the  
22 truth, so help you God?

23                   THE WITNESS: Yes.

24                   THE COURT OFFICER: Be seated. State  
25 your full name and address.

1 **J. McCONNEY - DIRECT - MR. COHN**

2 THE WITNESS: Jeffrey McConney, 390  
3 First Avenue, New York, New York.

4 THE COURT: Spell your last name.

5 THE WITNESS: M-C-C-O-N-N-E-Y.

6 THE COURT: M C capital C?

7 THE WITNESS: Yes, sir.

8 THE COURT: Proceed.

9 **DIRECT EXAMINATION**

10 **BY MR. COHN:**

11 Q. Mr. McConney, by whom are you employed and in  
12 what capacity?

13 A. Comptroller, Trump Organization.

14 Q. How long have you been in that capacity?

15 A. Little over 24 years.

16 Q. And in the briefest terms, what is your  
17 background in relation to the duties you perform at the  
18 Trump Organization as comptroller?

19 A. Background, graduated from Baruch College in  
20 1978. Worked for a CPA firm for nine years, then worked  
21 for Mr. Trump taking care of the day-to-day operations  
22 of the whole organization. On the accounting side of  
23 operations; development, marketing, I take care of the  
24 accounting side.

25 Q. On the accounting side were you requested to do

1                    *J. McCONNERY - DIRECT - MR. COHN*

2            an expense projection in relation to this operation?

3            A.    Yes.

4            Q.    I show you what is Exhibit 30 for  
5            identification.

6                    THE COURT:    30, 3-0?

7                    MR. COHN:    30.

8            A.    Yes.    That's the projection that I prepared  
9            along with my accounting department.

10                   MR. COHN:    Your Honor, opposing counsel  
11            has a copy of all the exhibits we had premarked.  
12            We'll try to move along as best we can.

13                   THE COURT:    That's marked for  
14            identification.    Offered in evidence?

15                   MR. COHN:    Yes.    I'm going to offer it  
16            in evidence.

17                   MR. BENOWICH:    I have an objection, your  
18            Honor.

19                   This is plainly a summary prepared for  
20            litigation.    I don't know if the stack that I was  
21            given today is background that you have or not.  
22            Certainly without that representation and  
23            authentication, knowing what this includes, I  
24            can't agree to putting it in.

25                   THE COURT:    Let me see the document,

1 *J. McCONNEY - DIRECT - MR. COHN*

2 please.

3 I'm going to sustain the objection  
4 without prejudice to you, Mr. Cohn, to lay a  
5 stronger foundation for the admission of this  
6 document.

7 MR. COHN: Thank you.

8 Q. Mr. McConney, you brought certain financial  
9 records here today that have been premarked, as I  
10 believe, 1 through, give it to you, 1 through -- the  
11 records are, let's say 30; have you not?

12 A. Yes.

13 Q. How, if at all, do these records -- could you  
14 give us a brief description, what's in these folders,  
15 let's say 1 through 28, or whatever they are, for  
16 identification?

17 A. We used them as a basis for coming up with the  
18 bulk of the expenses for the first seven months of costs  
19 to run the Seven Springs property.

20 The folders in front of you are the invoices  
21 paid by Seven Springs, LLC operational administration  
22 repairs.

23 Q. When you took those, they were for what period?  
24 How long a period?

25 A. From January through July, 2011.

*J. McCONNERY - DIRECT - MR. COHN*

1  
2 Q. Seven months?

3 A. Correct.

4 Q. How, if at all, did you extrapolate those?

5 A. We analyzed invoices and extrapolated the next  
6 12-month period as budget, any other budget.

7 Q. In relation to Exhibit 30 for identification,  
8 how, if at all, do the other exhibits within the folders  
9 on the table in front of you, 1 through 28 or 29, how do  
10 they relate to Exhibit 30?

11 MR. BENOWICH: Objection.

12 THE COURT: I'll allow it.

13 A. The folders in front of you, I don't have the  
14 exact exhibit number, page four, exhibit 30, is a  
15 listing of the expenses for Seven Springs; okay?

16 THE COURT: You use the word expenses.

17 Expenses from January through July, 2011.

18 THE WITNESS: Two columns. First marked  
19 2011, actual seven months, invoices paid by Seven  
20 Springs, LLC.

21 Next column, projected. We extrapolated  
22 then numbered the next 12-month period, everything  
23 2011. Seven months column bills are one of the  
24 exhibits in front of you.

25 Q. One of those folders?

*J. McCONNERY - DIRECT - MR. COHN*

1  
2 A. One of those folders.

3 Q. And so in effect 30 is a summation of the bills  
4 in the folders?

5 A. Correct.

6 Q. As shown on the seven months column, actually?

7 A. Correct. In addition to that, a few folders,  
8 one is for real estate, one for insurance, which are in  
9 the summary. Not the back page, but in back of the  
10 projection for real estate taxes and insurance.

11 Q. By way of example, the real estate taxes, first  
12 page under direct expenses, that would be Exhibit 1 for  
13 identification?

14 A. I don't have the Exhibit Number here. There is  
15 a copy of real estate tax bills for the next calendar  
16 and fiscal years.

17 MR. COHN: I'm representing Exhibit 1  
18 for identification, real estate taxes, and by way  
19 of example, Exhibit 27, second from the end, first  
20 page, general insurance.

21 Q. Do the exhibits, do you intend to demonstrate to  
22 the Court that the exhibits marked for identification,  
23 those folders key into the various expenses elicited on  
24 Exhibit 30?

25 A. Yes.

*J. McCONNEY - DIRECT - MR. COHN*

1  
2 Q. Is Exhibit 30 a list of those expenses?

3 A. Yes.

4 MR. COHN: Your Honor, I offer those at  
5 this time.

6 THE COURT: Mr. Benowich, do you intend  
7 to question the fact that the numbers on what's  
8 been marked for identification as Exhibit 30  
9 reflects the bills that are in the folders?

10 If you want to go through those folders  
11 you can, but it's on your clock, not mine.

12 MR. BENOWICH: Two things. One is I  
13 don't know what bills. We haven't had discovery.  
14 I got in this morning. I'm going to assume if  
15 they say a bill is shown as being paid and is  
16 supposed to be in the folder, then it's there, for  
17 the moment.

18 The problem is this gentleman talked  
19 about the Seven Springs project, which we know and  
20 I know from looking at the first folder is not  
21 North Castle, which is the subject of your Honor's  
22 inquiry.

23 We've established if there is any impact  
24 on the Bedford plan which has been approved it's  
25 voluntary. They want to hold onto that to see



*J. McCONNEY - DIRECT - MR. COHN*

1  
2 what they get. That's not the result of the  
3 injection -- for example, I'm looking at the  
4 bills, the real estate bill folder. I see bills  
5 that are not from North Castle, so to the extent  
6 that this summary, Exhibit 30, purports to be  
7 broader, it's one of my bases for objection. To  
8 the extent that it's broader than North Castle, I  
9 object as irrelevant and, you know, it's not what  
10 we're here about.

11 MR. COHN: We intend to show that there  
12 are various allegations which bring it down to  
13 figures that represent, for this witness'  
14 testimony, the North Castle property. If there  
15 are other bills --

16 THE COURT: I'll allow, Mr. Benowich.  
17 The argument goes to the weight, rather than  
18 admissibility.

19 I'll admit, subject to whatever  
20 information you want to establish.

21 Mr. Cohn, have Exhibit 30 marked in  
22 evidence.

23 MR. BENOWICH: Can it be received  
24 subject to connection with each of the items in  
25 the folders, because without having gone through

1           **J. McCONNEY - DIRECT - MR. COHN/VOIR DIRE**

2           that, it's prejudicial to me to assume, as I did  
3           for the purpose of the argument with the Court.

4           THE COURT:   Yes.

5           MR. BENOWICH:   Everything is in here.

6           THE COURT:   You will be given the  
7           opportunity to review the claimed supporting  
8           documentation and question this witness at some  
9           point, if you wish, if you believe there is  
10          something in the supporting documentation that  
11          does not support the numbers in the exhibit.

12          I understand your argument.   The exhibit  
13          as submitted, their point is it's for the entire  
14          project.   And whether or not that's relevant on  
15          the issue of what damages there are by blocking  
16          the enjoining use of Oregon Road, North Castle is  
17          another issue.

18          MR. BENOWICH:   May I have one voir dire,  
19          one line?

20          THE COURT:   Yes.

21   **VOIR DIRE**

22   **BY MR. BENOWICH:**

23           Q.   Sir, looking at Exhibit 30, first debt service,  
24           \$5,800?

25           A.   Yes.

1                    *J. McCONNEY - DIRECT - MR. COHN/VOIR DIRE*

2            Q.    Do you have the folder for the mortgages?

3            A.    No.    I didn't bring the folder for the  
4 mortgages.

5            Q.    What's this number based on?

6            A.    12 monthly mortgage payments.

7            Q.    By whom?

8            A.    Seven Springs, LLC.

9            Q.    To whom?

10           A.    The bank.

11           Q.    Are the payment checks for payment of the  
12 mortgages here?

13           A.    No.

14                    MR. BENOWICH:    The checks aren't here.

15                    I renew my objection to this.

16                    THE COURT:    Mr. Benowich, it goes to the  
17 weight this witness, the comptroller who pays the  
18 bills, under oath testified they made those  
19 payments.

20                    MR. BENOWICH:    He may well have mailed  
21 the payments, but I am entitled to, before this  
22 comes in as a summary of the payments that he  
23 claims were made, to have the documents in court  
24 that are not in court.

25                    I will represent to the Court that I

1                    *J. McCONNEY - DIRECT - MR. COHN/VOIR DIRE*

2                    have had a title search done and there is  
3                    \$8 million of debt on this property as of July of  
4                    this year. I don't know how you could get a  
5                    \$580,000 mortgage when those are the only two  
6                    mortgages on the property, so I renew my  
7                    objection.

8                    THE WITNESS: Can I say something?

9                    THE COURT: I'm allowing. Objection  
10                   overruled. Ask further questions on cross.

11                   Mr. Cohn, proceed, please.

12                   THE COURT: Refresh my recollection.  
13                   You're asking for production of the mortgage  
14                   checks?

15                   MR. BENOWICH: If he has them I would  
16                   like to see them. I don't think a summary can  
17                   come in.

18                   THE COURT: Mr. Benowich, are you asking  
19                   for the mortgage checks? One or two words. Yes  
20                   or no?

21                   MR. BENOWICH: If it's in evidence, I  
22                   would like them.

23                   THE COURT: Very well. Get those  
24                   mortgages checks, make copies. See that Mr.  
25                   Benowich gets them. Once Mr. Benowich gets them,

*J. McCONNEY - DIRECT - MR. COHN*

I'll reserve, if he wants to review. Move on.

(Plaintiff's Exhibit 30, expense  
projection ending 7/31/12, received in evidence.)

**DIRECT EXAMINATION**

**BY MR. COHN:**

Q. We're getting ahead of ourselves. Since it was raised, since the mortgage checks are not here are, there checks totalling 579, 420?

A. On the last page of Exhibit 30, which says expense projection, it has a list of administrative operating repairs and maintenance. The column says 2011, actual seven months.

Those are the bills in front of you, the paid bills through January -- through July, 2011, the numbers used for the projection, which are on the summary, expense projection on the summary, which is the first page of the exhibit, which is the projection for the next 12 months debt service. Payments are for the next 12 months.

Q. In fact, 575 is higher than the checks that you have for the seven months; is that correct?

A. Correct. It would be 12 payments instead of seven.

Q. Is this entirely for the property at issue?

1 *J. McCONNEY - DIRECT - MR. COHN*

2 A. Yes.

3 Q. The North Castle property or does it include  
4 other properties?

5 A. Seven Springs, LLC. It's only by Seven Springs,  
6 LLC. Seven Springs, LLC to the lender, whatever  
7 property is owned by Seven Springs, LLC.

8 THE COURT: Do they own any other  
9 property, other than the property that is  
10 contained in the three towns; Bedford, North  
11 Castle, New Castle?

12 THE WITNESS: No, sir.

13 Q. Whatever expenses, sir, appear on Exhibit 30,  
14 what is the plan, if any, for defraying those expenses  
15 in connection with this property?

16 Is there a plan for defraying those expenses?

17 MR. BENOWICH: Objection.

18 THE COURT: What does that mean, framed?

19 MR. COHN: Defraying.

20 THE COURT: Defraying I'll allow.

21 A. When the project -- I'm not a lawyer -- when the  
22 project is approved and becomes condominiums the  
23 homeowners' association will then pay real estate taxes,  
24 salaries, repairs, maintenance, snow removal expenses.  
25 What we're referring to, now Mr. Trump is funding out of

*J. McCONNEY - DIRECT - MR. COHN*

1  
2 his pocket. That will be stopped when the mortgage  
3 payment is paid off through the sale of some units;  
4 general insurance, expenses, repairs, maintenance,  
5 operating expenses will all be paid by the condominium  
6 association.

7 Q. Then, sir, what we're seeking here is if the  
8 stay, hypothetically if the stay is prolonged, this  
9 property's expenses are prolonged for one year, is that  
10 the projection?

11 A. Yes, sir.

12 Q. What, if anything, is lost opportunity costs?

13 MR. BENOWICH: Objection.

14 THE COURT: I'll allow him to explain  
15 it.

16 A. Right now Mr. Trump is funding this project to  
17 the tune of 3 million or whatever million dollars per  
18 year he's losing the opportunity to spend that on  
19 another project, to buy another golf course, another  
20 piece of undeveloped land he may be able to make more  
21 money on. So, at this time, the rates of return are  
22 forgone by choosing to put funds in one property as  
23 opposed to another.

24 MR. BENOWICH: Objection, your Honor,  
25 irrelevant. Mr. Trump is not the Plaintiff. He

1                    *J. McCONNEY - DIRECT - MR. COHN*

2                    may be the deep pocket behind it, but Plaintiff is  
3                    Seven Springs, LLC.

4                    THE COURT: Sustained. Strike that  
5                    answer from the record.

6                    Q. Okay. What are the lost opportunity costs in  
7                    relation to Seven Springs, LLC?

8                    MR. BENOWICH: Objection.

9                    THE COURT: I'm allowing that.

10                  A. Seven Springs, LLC if this project went forward  
11                  are condominium sales from housing sales.

12                  THE COURT: Off the record.

13                  **(Discussion off the record.)**

14                  MR. COHN: He's not a lawyer. I don't  
15                  want to lead him.

16                  Q. We do want to be correct. We are selling homes.  
17                  It's a homeowner's association. There is no secret  
18                  here. Rather than prolonging, instead of condominium,  
19                  you are referring, in effect, apologize to counsel, to a  
20                  homeowner's association?

21                  A. Yes.

22                  Q. You say these costs, taking over, are the  
23                  projected homeowner's association?

24                  A. Yes.

25                  Q. Now, what are the lost opportunity costs? Make



*J. McCONNEY - DIRECT - MR. COHN*

1 it brief.

2  
3 What are the lost opportunity costs incurred at  
4 Seven Springs, are they paying these expenses?

5 A. The current expenses?

6 Q. When you said Mr. Trump, you meant Seven  
7 Springs?

8 MR. BENOWICH: Objection.

9 THE COURT: Sustained.

10 Q. Okay. What are the lost opportunity costs to  
11 Seven Springs in the briefest of terms?

12 A. If the project is not going forward, if we're  
13 not selling homes, we're not deriving revenue.

14 One of our primary businesses is to sell homes.  
15 If we can't sell the homes, then we're losing that  
16 money.

17 Q. Future profits?

18 A. Yes.

19 MR. BENOWICH: Objection.

20 Q. In your figure, sir, is there any calculation  
21 made or requested to this Court in connection with this  
22 application for lost opportunity costs?

23 A. No.

24 MR. BENOWICH: Move to strike the whole  
25 thing as counsel established, it's irrelevant.

1 *J. McCONNEY - DIRECT - MR. COHN*

2 MR. COHN: Not irrelevant.

3 THE COURT: I'm allowing. Goes to the  
4 weight.

5 Please proceed.

6 Q. Now, in connection with real estate taxes,  
7 Exhibit 1, for identification, the figure on Exhibit 30  
8 is 411825. Is that -- are the bills there for more than  
9 one property? Are they for the North Bedford and New  
10 Castle properties?

11 A. It's for all three properties, North Castle, New  
12 Castle, Bedford properties.

13 Q. Has there been an application to bring it down  
14 to this subject property?

15 A. It's for all three towns, taxes for the whole  
16 property, three towns.

17 Q. And that's the 411825?

18 A. Correct.

19 Q. You made that projection?

20 A. There is 2011 paid bills and the fiscal year of  
21 school which is 2010, 2011.

22 THE COURT: Just so that I understand  
23 fully what we're talking about, you indicated  
24 there was nine homes in Bedford and now we're  
25 dealing with the North Castle property. Any

*J. McCONNEY - DIRECT - MR. COHN*

1  
2 development in New Castle, happens to be a little  
3 bit of land here? Do we know? Anybody know? Are  
4 there any homes plans for New Castle, Town of  
5 Bedford?

6 Town of North Castle is the subject  
7 property here, Oregon Road, North Castle and you  
8 talk about some of this property being in the Town  
9 of New Castle.

10 MR. COHN: We just opened an application  
11 for New Castle.

12 THE COURT: We don't know where we stand  
13 with regard to New Castle. Maybe some future  
14 development, New Castle at some point.

15 MR. COHN: That's correct.

16 THE COURT: Proceed.

17 Q. When I relate to the subject property, I'm  
18 talking about North Castle, all right?

19 Now, what are the indirect expenses, first page  
20 of 30?

21 A. Two types of expenses. The easy ones are  
22 direct, which apply directly to the real estate taxes,  
23 maintenance, payroll, repairs and maintenance to the  
24 property.

25 Indirect expenses are corporate expenses that

*J. McCONNEY - DIRECT - MR. COHN*

1  
2 are not directly attributable to it. We allocate a  
3 percentage to that property, because the work is done on  
4 it exclusively, people working on it, like myself.

5 Q. Where is the administration of property done  
6 from or performed from what location?

7 A. 725 Fifth Avenue.

8 Q. And what percentage of allocation to the  
9 indirect expenses of that office have you made relative  
10 to Seven Springs?

11 A. Ten percent.

12 Q. So these figures represent ten percentage  
13 allocation for a period of one year; is that correct?

14 A. On the payroll and payroll tax side we went  
15 through the individual duties.

16 We didn't take every single employee at the  
17 Trump Organization that works there. We analyzed what  
18 they did what they related to the Seven Springs property  
19 and took ten percent of their property and business  
20 corporate overhead. Ten percent of the rent, insurance,  
21 telephone bill.

22 Q. How much did that come to in total?

23 A. \$1,056,900.

24 Q. Let's get to the real estate, 411825. That's  
25 Exhibit 1?

**J. McCONNEY - DIRECT - MR. COHN/VOIR DIRE**

1  
2 A. Yes.

3 MR. COHN: I offer it, your Honor.

4 THE COURT: Show it.

5 MR. COHN: Mr. Benowich has it.

6 MR. BENOWICH: This is the same thing?

7 MR. COHN: Yes.

8 MR. BENOWICH: Voir dire, your Honor?

9 THE COURT: Yes.

10 **VOIR DIRE**

11 **BY MR. BENOWICH:**

12 Q. Do you mind if I stay back here, is that okay?

13 You said these are bills for 2010, issued by New  
14 Castle, North Castle and Bedford; is that right?

15 A. Correct.

16 Q. And why did you include New Castle and Bedford  
17 in this package?

18 A. Going back to the homeowner's association, these  
19 expenses will be around until the homeowner's  
20 association begins and real estate taxes will not be  
21 paid by Seven Springs, LLC, but by the individual  
22 homeowners, which are these taxes.

23 Q. Are you being required to pay them by reason of  
24 the injunction?

25 A. I'm not a lawyer, I can't answer that question.

**STIPULATION**

1 Q. Would any of these taxes have -- withdrawn.

2 Would you have been able to stop paying any of  
3 these taxes if the injunction had not been issued?  
4

5 A. Not to my knowledge.

6 Q. These taxes have to be paid, regardless of the  
7 injunction?

8 MR. COHN: Objection as being  
9 irrelevant. It's not a question of how long the  
10 taxes go out, not the fact that, yes, they do have  
11 to be paid. We'll stipulate whether or not there  
12 is an injunction, if the injunction --

13 THE COURT: Let's break for the morning.  
14 I want to talk to you people.

15 **(Recess.)**

16 THE COURT: Mr. Cohn?

17 MR. COHN: Your Honor, at the Court's  
18 suggestion, with the aid of the Court, we have  
19 reached an agreement on this issue as to the  
20 amount of the bond.

21 THE COURT: Very well.

22 MR. COHN: We agree that the bond to be  
23 posted by the Nature Conservancy shall be  
24 \$750,000.

25 THE COURT: Very well. You'll submit an

**STIPULATION**

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order, Mr. Cohn, for me to sign. I'll so order the stipulation.

Mr. Benowich, you agree that's the amount on behalf of your clients?

MR. BENOWICH: That is the number.

THE COURT: Agreement is so ordered by the Court. Submit a written order for my signature, please.

MR. COHN: Thank you. I would like to order this aspect of the transcript.


THE COURT: Off the record.

**(Discussion off the record.)**

THE COURT: You arrived at a very reasonable number, gentlemen. Thank you very much.

oOo

*Certified to be a true and correct transcript.*

  
\_\_\_\_\_  
Mary C. Traynor,  
Senior Court Reporter